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REMARKS

Claims 14-22 and 26-48 are currently pending in the subject application and are presently under consideration. Favorable consideration of the subject patent application is respectfully requested in view of the comments herein.

**I. Rejection of Claims 14-22 and 26-48 Under 35 U.S.C. §102(e)**

Claims 14-22 and 26-48 stand rejected under 35 U.S.C. §102(e) as being anticipated by Peterson *et al.* (US 5,801,687). Withdrawal of this rejection is respectfully requested for at least the following reason. Peterson *et al.* fails to teach or suggest each and every limitation set forth in the subject claims.

A single prior art reference anticipates a patent claim only if it expressly or inherently describes *each and every limitation set forth in the patent claim*. *Trintec Industries, Inc. v. Top-U.S.A. Corp.*, 295 F.3d 1292, 63 USPQ2d 1597 (Fed. Cir. 2002); *See Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The *identical invention must be shown in as complete detail as is contained in the ... claim*. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989) (emphasis added).

Independent claims 14, 22, 26, 29, 32, 33, 37, 38, 43 and 48 recite similar claim limitations: *a compiler for compiling the specification which results in a user interface output controller distinct from the application program, the user interface output controller including a plurality of plans, each of the plans having a series of operators*. Clearly the invention as claimed utilizes *a compiler* to compile a specification. The result of the compilation of the specification is *a user interface output controller* that is *distinct from the application program*. The resultant *user interface output controller* created by the compilation of the specification includes a plurality of plans, each plan having a series of operators. Peterson *et al.* fails to teach or suggest these novel features of the claimed invention.

Peterson *et al.* discloses an authoring tool that comprises at least one nestable graphic state and a state machine, wherein each state machine comprises one or more states and zero or more transitions, each transition interconnecting a first state with a

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second state. *See* Abstract. While applicants' representative agrees with the Examiner's characterization of Peterson *et al.* as disclosing the use of state machines, applicants' representative nevertheless disagrees with the Examiner's characterization in the instant Advisory Action dated July 29, 2004, that "a set of instructions are used that rely on input and current outputs to follow a sequence to determine the output that will occur to the screen based on following these instructions, wherein this would represent the 'user interface output controller'," for the following reasons. It is universally recognized that a state machine is:

an *abstract machine* consisting of a set of states (including the initial state), a set of input events, a set of output events, and a state transition operation. The state transition operation takes the current state and an input event and returns the new set of output events and the next state.

<http://www.hyperdictionary.com/dictionary/finite+state+machine> (emphasis added).

Under the definition provided above, and by necessary implication from the Examiner's contention, any and every compiled computer program must fall within the definition of being a state machine as each compiled programming instruction is input that changes one or more states and may cause other actions to take place. While every compiled computer program may be reduced in the abstract to being envisioned as one or more interconnected state machines, and in many instances while a particular computer program is being developed can be conceptually visualized as a set of one or more state machines, the concept depicted in the state machine, once programmed into a set of program instructions and compiled into machine instructions, ceases to be the abstraction embodied by the state machine of its conception; the act of converting the state machine from an abstraction to programmed code and compiling the programmed code into machine instructions converts the state machine into a distinct entity – a computer program – distinguishable from its initial abstract and conceptual form – the state machine. It is inherent therefore that a compiler is ultimately necessary to convert an abstract state machine into compiled machine instructions, but the converse is not true; a state machine being merely an abstraction or visual representation of permissible states

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and transitions does not require a compiler to transform it into something else; the state machine remains merely an abstraction or visualization of permissible states and transitions.

Further, in context of compilers, it is universally acknowledged by persons skilled in the art that a compiler is: "a program that reads the statements written in a human-readable programming language, such as Pascal or Modula-2, and translates the statements into a machine-readable executable program." Webster's New World Computer Dictionary 82 (10 ed 2003). Thus, the use of a compiler, to translate the specification that identifies a plurality of goal user interface output states into a user interface output controller distinct from the application program, transforms the specification into a distinct entity – the user interface output controller. It is evident therefore that the compiled user interface controller which includes a plurality of plans, each of which having a series of operators, as recited in the subject independent claims, is not the initial specification comprising a plurality of goal user interface output states that existed prior to the compilation, but rather a metamorphosis of the initial specification to a user interface output controller.

The Examiner asserts in the Final Office Action dated April 6, 2004, that Peterson *et al.* discloses at col. 6, lines 1-5, providing a compiler for compiling the specification which results in a user interface output controller distinct from the application program, wherein Peterson *et al.* states:

an authoring tool can allow an author to select an arbitrary state machine from within a multimedia product and, in response to such selection, can provide a representative map of the various states within the selected state machine.

As is evident in the above-quoted passage, no compilation is performed. All that appears to be taught by Peterson *et al.* is that an authoring tool allows a user to select an arbitrary state machine from within a multimedia product, and in response to this selection, the authoring tool provides a representative map of the various states within the selected state machine. Moreover, in the instant Advisory Action dated July 29, 2004, the Examiner states: "[t]he concept of using a compiler to develop a set of data to be used is quiet [sic]

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common in the computing field as is disclosed in the reference.” As applicants’ representative has acknowledged above, the utilization of compilers is well known in the art, however, as has also been stated above, compilers are always used to translate source code into object code, i.e. human-readable code into machine code. Compilers are never utilized to “develop a set of data”, as the Examiner seems to intimate. Furthermore, while the Examiner claims that the “concept of using a compiler ... is disclosed in the reference”, the Examiner has failed to provide an indication as to where this disclosure might be specifically located in the cited document, which leads one to the conclusion that Peterson *et al.* fails to teach or suggest the utilization of *a compiler to compile the specification which results in a user interface output controller distinct from the application program.*

Accordingly, in view at least the foregoing, it is respectfully submitted that Peterson *et al.* fails to teach or suggest each and every limitation set forth in independent claims 14, 22, 26, 29, 32, 33, 37, 38, 43 and 48, and associated dependent claims, and consequently that this rejection be withdrawn.

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CONCLUSION

The present application is believed to be in condition for allowance in view of the above comments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063.

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicants' undersigned representative at the telephone number below.

Respectfully submitted,

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